

OCT 20 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Petition for the Establishment
of Additional Standards to Govern
Study Area Boundary Changes in
Connection with the Transfer of
Service Territories Between or
Among Local Exchange Carriers

RM 8334

**COMMENTS OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits these comments in response to the Commission's Public Notice, DA 93-1128, released on September 20, 1993 in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its thousand-plus members provide over 98 percent of the exchange access lines in the United States.

AT&T filed a rulemaking petition to establish additional standards, together with detailed data submissions from the local exchange carriers (LECs) to enable the Commission to evaluate study area waiver requests. AT&T's proposals include the following general requirements: the local exchange carriers purchasing the exchange or exchanges to submit an estimate of the impact of the transaction on the universal service fund (USF), with specific information concerning the value of the exchange assets included in the transaction; and the purchaser of an exchange to demonstrate the extent to which local ratepayers will be burdened as a result of

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the sale and purchase.¹

In addition, AT&T asserted that the recent LEC study area waiver petitions may be typical of the magnitude and complexity of future LEC waiver requests. It estimated that the alleged high cost "subsidies" could be increased by as much as \$400 million annually, to a total of over \$1.1 billion.²

First of all, contrary to AT&T's allegations, the USF was established as a means to "promote or preserve universal service by enabling high cost companies to establish local exchange rates that do not substantially exceed rates charged by other companies."³ Basically, USF is a universal service support mechanism which exists to limit the assignment of costs to the intrastate jurisdiction that otherwise would have to be recovered primarily in local rates. Contrary to AT&T's allegation, the expense adjustment and payment of USF cannot, per se, lead to recovery of more than 100 percent of loop costs. Under the Commission's Part 36 rules, for a LEC to be eligible for USF support, it must first demonstrate that it has already placed in service loop plant leading to costs greater than 115 percent of the national average.⁴ The USF settlement that a LEC receives is not a new source of revenue, but is a universal service support mechanism that is required to recover loop costs already incurred. To the extent that there is any increase, it is

¹ See AT&T at 9 - 14.

² Id. at 7 - 8.

³ See MTS/WATS Market Structure, 78-72, Phase 1, FCC 82-579 at 43 (1982).

⁴ 47 C.F.R. §§ 36.601 through 36.641.

precisely the reason why the USF was established by the Federal/State Joint Board in the first place, i.e. as a mechanism to assist carriers with high loop costs, so that they are able to extend telephone service to those Americans without service, and to facilitate plant and equipment improvements to upgrade their services. The Commission should not lose sight of the fact that over the years, this USF policy has, in part, enabled AT&T and other interexchange carriers to enjoy significant decreases in access charge payments, and the widespread availability of basic telephone service has contributed substantially to the dramatic growth in interstate traffic.

Second, AT&T's proposed data requirements largely duplicate the Common Carrier Bureau's (Bureau) own set of data recommendations for the LECs to include in their waiver petitions, released in a Public Notice, DA 93-1093, on September 7, 1993. While USTA does not endorse the notion of additional data filings, nor consider them essential in all cases involving study area waivers, the Bureau's suggestions are at least voluntary. AT&T's suggestions are intended by AT&T to be mandatory.⁵ This is clearly unnecessary. The Commission should continue to allow the LECs the latitude of submitting supporting data if they deem it necessary to do so.

Third, the Commission recently issued a Notice of Proposed Rulemaking

⁵ AT&T proposed that the LECs submit the book value of assets; the SPF value of assets and excess deferred taxes in their waiver petitions. This type of information is not within the scope of a study area waiver request.

requesting comments on interim rule changes involving the USF.⁶ The proposed interim modifications would remain in effect for a limited time period while the Joint Board pursues a rulemaking on a broad spectrum of USF issues.⁷ USTA's filed comments indicated that the current mechanism under Part 36, Subpart F of the Commission's rules⁸ remains appropriate, and that there is no need to introduce interim modifications to the USF.⁹ Until such time as the Joint Board convenes a comprehensive rulemaking proceeding to examine the USF, it is premature for the Commission to pursue AT&T's rulemaking request at this time.

⁶ See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, FCC 93-435, rel. September 14, 1993.

⁷ Id. at ¶ 1.

⁸ 47 C.F.R. §§ 36.601 through 36.641.

⁹ See USTA's comments to the Notice of Proposed Rulemaking, CC Docket No. 80-286, FCC 93-435, filed on October 6, 1993 and reply comments filed on October 18, 1993. Should some interim modification be adopted in response to that Commission proposal, there will be no need for the rules sought by AT&T, as its purported interest would be otherwise addressed.

Accordingly, the instant proceeding should be terminated.

Respectfully submitted,

UNITED STATES TELEPHONE
ASSOCIATION

BY 

Martin T. McCue
Vice President & General Counsel

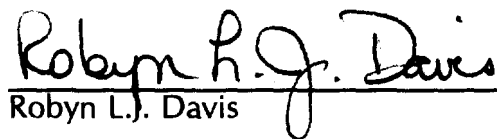
Anna Lim
Regulatory Counsel

900 19th Street, NW, Suite 800
Washington, D.C. 20006-2105
(202) 835-3100

October 20, 1993

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on October 19, 1993 copies of the Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


Robyn L.J. Davis

Francine J. Berry
Robert J. McKee
Peter H. Jacoby
AT&T
295 North Maple Avenue
Room 3244J1
Basking Ridge, NJ 07920

Jackie Spindler
Federal Communications Comm.
2000 L Street, NW
Washington, DC 20554

International Transcription Service
2100 M Street, NW
Suite 140
Washington, DC 20036